

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FARHAN ASLAM, #41959-037	:	
	:	
Petitioner	:	
	:	
v.	:	CIVIL ACTION NO. JFM-06-2963
	:	
UNITED STATES OF AMERICA	:	
	:	
Respondent	:	

MEMORANDUM

This matter is before the court on a pro se motion for return of property filed by Farhan Aslam, an inmate at the Federal Correctional Institution-Allenwood.. Aslam requests return of a 2004 Lexus RX 330 seized by federal authorities on July 7, 2005. The government seeks dismissal of the motion. Aslam has filed a reply in opposition based on his pending appeal before the United States Court of Appeals for the Fourth Circuit. The court will deny the motion to dismiss without prejudice.

I. Background

On November 10, 2005, Aslam pleaded guilty to smuggling goods in violation of 18 U.S.C. § 545. *See United States v. Aslam*, Criminal No. JFM-05-273 (D. Md.). In the stipulation of facts signed by Aslam and incorporated into his plea agreement, he admitted participating in an illegal conspiracy to violate multiple federal statutes, and that the value of the illegally imported and distributed merchandise was \$759,161.16. Plea, Gov't Ex. 1. In the plea agreement, Aslam agreed "to forfeit to the United States all of his right, title, and interest in \$759,161.16," including his rights to items "already seized in aid of forfeiture." *Id.* at ¶ 15. Additionally, he agreed that "the Court may enter an order of criminal forfeiture in the amount of \$759,161.16 at the time of sentencing."

Id.

On April 21, 2006, the court sentenced Aslam to a total term of forty months incarceration. On May 8, 2006, the court entered an order of forfeiture in which Aslam lost all right, title, and interest in nine different items, specifically referencing the Lexus RX 330, the subject of the instant motion. *See* Gov't Ex. 2 & 3 ¶ 1.b. Aslam appealed and on December 14, 2006, the Fourth Circuit dismissed the appeal in part, determining that Aslam had knowingly and voluntarily waived his right to appeal, but permitted appeal of the convictions based upon ineffective assistance of counsel. *See United States v. Farhan Aslam*, CA No. 06-4430 (4th Cir. 2006).

II. Analysis

Aslam argues that if the appellate court concludes that he received ineffective assistance of counsel, the “entire consequences” of his plea will “be vitiated” including the forfeiture at issue. Pet. Response at 2 ¶ 3. The government counters that Aslam is foreclosed from seeking the return of the Lexus because it is the subject of a judgment entered by agreement and precluded by the doctrine of *res judicata*. In light of Aslam’s pending appeal, the court concludes this matter is not yet ripe for disposition. Accordingly, the court will dismiss the petition without prejudice to later refiling.

April 26, 2007

Date

/s/

J. Frederick Motz
United States District Judge